

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

DIOMED, INC.,

Plaintiff,

v.

NEW STAR LASERS, INC.,  
d/b/a COOLTOUCH INC.

Defendant.

Civil Action No. 04-12157 NMG

**STATEMENT OF NON-OPPOSITION OF DEFENDANT NEW STAR LASERS,  
INC., d/b/a COOLTOUCH INC., TO THE MOTIONS OF ENDOLASER  
ASSOCIATES, L.L.C., TO INTERVENE AND TO DISMISS**

Defendant New Star Lasers, Inc., d/b/a CoolTouch Inc. ("New Star"), does not oppose the relief sought in the Motions of Endolaser Associates, L.L.C., to Intervene (Docket No. 24) or to Dismiss (Docket No. 25).

Respectfully Submitted,

/s/ David Himelfarb

William A. Zucker (BBO # 541240)

David Himelfarb (BBO # 649596)

McCarter & English, LLP

265 Franklin Street

Boston, MA 02210

Tel. (617) 449-6500

Fax (617) 607-9200

- and -

Audrey A. Millemann (Cal. Bar # 124954)

*Admitted Pro Hac Vice*

Dale C. Campbell (Cal. Bar # 99173)

*Admitted Pro Hac Vice*

Weintraub Genshlea Chediak

400 Capitol Mall, Eleventh Floor

Sacramento, CA 95814

Tel. (916) 558-6000

Dated: September 4, 2008

**CERTIFICATE OF SERVICE**

I, David Himelfarb, counsel for Defendant New Star Lasers, Inc., d/b/a CoolTouch Inc., hereby certify that a copy of the foregoing Statement of Non-Opposition has been served on all counsel of record through the Court's CM/ECF Document Filing System on this 4<sup>th</sup> day of September, 2008.

/s/ David Himelfarb  
David Himelfarb